



First Named Inventor	Wayne A. Wade	PRE-APPEAL BRIEF REQUEST FOR REVIEW
Serial No.	10/600,263	
Filing Date	June 20, 2003	
Group Art Unit	3727	
Examiner Name	Stephen J. Castellano	
Confirmation No.	7552	
Attorney Docket No.	165.003US01	
Title: THERMOPLASTIC MOLDED TANK		

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Advisory Action mailed September 26, 2006, please consider the following in the Pre-Appeal Brief Request for Review:

REMARKS

The Advisory Action mailed September 26, 2006, indicates that for purposes of appeal, the claim amendments will be entered. Therefore, Appellant comments on the claims as amended in the response to the Final Office Action.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-2, 4-8, 18-19 and 21-22

Claims 1-2, 4-8, 18-19, and 21-22, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Redding (U.S. Patent No. 3,552,599) in view of Clarke et al. (U.S. Patent No. 5,667,113). Appellant respectfully traverses.

The Advisory Action states, “the art discloses a plurality of molded through hollow tapered columns.” Redding does not show hollow columns. Appellant asserts that the alleged “columns” in Redding are in fact simply indentations in the walls of the tank. Referring to Figures 4 and 5 especially, it is clear that the indentations meet at a wall 72. See Redding, col. 2, lines 61-66. This wall blocks the alleged column so that it is not a “molded through hollow tapered column” as is recited in the claims. It is not hollow or molded through at all. Still further, the Office Action argues that Redding can inherently be used as a septic tank. However, the structure of Redding is specifically designed to allow ports 30 to expand from within without rupturing. See Redding, col. 3, line 30 through col. 4, line 5. Further, the wall section 72 is a required component of Redding. It is specifically designed to give way at certain maximum internal pressures.

Clarke et al. has been cited only for the difference in size of the first and second ports. However, Clarke et al. is also not amenable for use as a septic tank. Further, it is not proper to use any hollowed through section of Clarke et al. in combination with Redding, since Redding requires the wall 72 as part of its designed structure and operation. Therefore, it is improper to combine Redding and Clarke et al. Still further, even if properly combinable, which Appellant submits is clearly not proper, Redding requires that its columns not be hollow by the inclusion of the wall 72.

Because each of the rejections is premised on an erroneous interpretation of the cited art, and especially the required wall of Redding, which precludes its alleged “columns” from being

hollow and through molded. Appellant contends that the rejections are improper and in error. For a more detailed analysis of the rejections and Appellant's response thereto, please refer to Appellant's response to the Final Office Action, mailed August 28, 2006.


CONCLUSION

In view of the above remarks, Appellant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 501373.

If the Examiner or the review panel has any questions or concerns regarding this application or request, please contact the undersigned at (612) 312-2203.

Respectfully submitted,

Date: 30 Oct. 2006


Daniel J. Polglaze
Reg. No. 39,801

Attorneys for Appellant
Leffert Jay & Polglaze
P. O. Box 581009
Minneapolis, MN 55458-1009
T 612 312-2200
F 612 312-2250